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| 09/976,135 | 10/12/2001 | Thomas R. Stanley | TPP:656 US | 9536 |
| 26231 | 7590 | 12/01/2003 | EXAMINER | |
| FISH & RICHARDSON P.C. 5000 BANK ONE CENTER 1717 MAIN STREET DALLAS, TX 75201 | | | PARSLEY, DAVID J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 12/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,135

Applicant(s)

STANLEY ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,13-15,21,25,28,29,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,13-15,21,25,28,29,40 and 41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment (paper no. 14) dated 9-15-03 and this action is non-final.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14-15, 21 and 40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Referring to claims 14, 21 and 40 the limitation of "without changing the conveying belt" as in claims 14 and 40 and the limitation of "without replacement of the conveying belt" in claim 21 are not supported in applicant's disclosure. Further, the conveying belt of applicant's invention does change in that the path and thus the shape of the belt along the path changes as the idler rollers change position.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to where the air source is in relation to the other components of the device.

Claim 28 recites the limitation "the channel" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8, 25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,755,022 to Whittlesey.

Referring to claims 1 and 25, Whittlesey discloses an apparatus for automatically stuffing tubular food casing with food product which comprises a stuffing horn – at 26 which food product flows into tubular food casing deshired from a shirred food casing stick on the stuffing

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horn, an input end of the stuffing horn being interconnected with a pressurized source of food product, a clipping device – at 20 for closing stuffed food casing with a clip - 40, a means for causing a tape – see figure 1, holding lengths of string having end portions secured together to form string loops - 54, to be directed toward the clipping device – 20 for closing an end of the food casing so that a string loop – 54 is transferred directly from the tape into an entry into a slot – see figures 1 and 11, wherein the entry is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is being closed with a clip, the clip draws the loop to the casing and holds the end portions of the loop between the clip and the food casing – see for example figures 1 and 11.

Referring to claim 2, Whittlesey discloses a plurality of rolls – at 60,62,68,76,70,76,86 and surrounding 86, including a tape supply roll, a drive roll, a takeup roll, and at least one intermediate roll which is proximate the entry so that the secured together end portions of a string loop project from the tape into the entry slot as the tape passes around the intermediate roll – see for example figure 1.

Referring to claim 3, Whittlesey discloses means for driving the drive roll to pull the tape from the supply roll around the intermediate roll – see for example figure 1.

Referring to claims 4 and 28, Whittlesey discloses an edge – see figure 10, for catching secured together end portions of a string loop as the string loop passes around the intermediate roll to cause the secured together portions of the string to protrude from the tape into the entry to the slot and to assist in removal of the string loop from the tape – see for example figures 1 and 10-11.

Referring to claim 6, Whittlesey discloses the secured together portions are secured together by a knot – at 58.

Referring to claim 8, Whittlesey discloses means for radially compressing the food casing – at 30-31, after being stuffed to cause a restricted location – at 38, along a stuffed food casing – 24, length, the clipping device being configured to clip the casing at the restricted location – see for example figure 1.

Claims 25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,612,684 to Kollross.

Referring to claim 25, Kollross discloses a method for automatically stuffing tubular food casing with food product comprising, passing food product through a stuffing horn – 12, into a tubular food casing – 14, deshirred from a shirred food casing stick – see for example figure 1, on the stuffing horn where an input end of the stuffing horn is interconnected with a pressurized source of food product – proximate 10, after the food casing is stuffed, closing the food casing with a clip, using a clipping device – 18, transferring a string loop – 34, directly from a tape into entry into a slot in the clipping device so that when the food casing is closed with the clip, the clip draws the loop to the casing and holds the loop to the food casing at two or more points along the loop – see for example figures 1-10.

Referring to claim 28, Kollross discloses an edge – the end portion of jaw – 76 as seen in figures 3 and 7, for catching secured together end portions of a string loop – 34 as it passes around the intermediate roll to cause the secured together portions of the string to protrude from the tape into the entry to the slot and to assist in removal of the string loop – 34 from the tape – see for example figures 3 and 7.

Claims 21 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,885,150 to Whittlesey. Whittlesey discloses an apparatus for automatically stuffing tubular food casing with food product which comprises a stuffing horn through which food product flows into tubular food casing deshirred from a shirred food casing stick on the stuffing horn, an input end of the stuffing horn being interconnected with a pressurized source of food product, a clipping device for closing stuffed food casing with a clip – 16, 18, wherein a conveyor – see figures 2-3 is provided to remove stuffed food product from the vicinity of the clipping device after stuffed food casing is closed, the conveyor comprising a conveying belt, the belt traveling over slacker idler rollers – at 50 and 68 beneath the conveying surface of the belt that permit the length of the conveying surface to be extended and retracted to extend and reduce a space between the clipping device and the conveying surface, without changing or replacement of the belt – see for example figures 1-4 and columns 1-5 where the belt is not changed in that the idler rollers are separate from and not integral with the belt and therefore the idler rollers can be moved without changing or replacing the conveying belt.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,612,684 to Kollross in view of Whittlesey.

Referring to claim 1, Kollross discloses an apparatus for automatically stuffing tubular food casing with food product which comprises a stuffing horn – at 12 which food product flows into tubular food casing deshirred from a shirred food casing stick on the stuffing horn, an input end of the stuffing horn being interconnected with a pressurized source of food product, a clipping device – at 18 for closing stuffed food casing with a clip - 92, a means for causing a tape – see figures 3-10, holding lengths of string having end portions secured together to form string loops - 34, to be directed toward the clipping device – 18 for closing an end of the food casing so that a string loop – 34 is transferred directly from the tape into an entry into a slot – see figure 3, wherein the entry is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is positioned in the slot and the tape is positioned relative to the entry so that when the food casing is being closed with a clip, the clip draws the loop to the casing and holds the end portions of the loop– see for example figures 3-10. Kollross does not disclose the end portions of the loop are held by the clip between the clip and the casing. Whittlesey does disclose the end portions of the loop – at 54 are held by the clip – 40 between the clip – 40 and the casing – 24 – see for example figures 1 and 11. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kollross and add the end portions of the loop secured between the clip and casing of Whittlesey, so as to securely hold the loop to the casing.

Referring to claim 2, Kollross discloses the means for causing the tape to be directed toward the clipping device comprises a plurality of rolls including a tape supply roll, a drive roll, a take-up roll and at least one intermediate roll – 100 which is proximate the entry so that the

secured together end portions of a string project from the tape into the entry into the slot as the tape passes around the intermediate roll – 100 – see for example figures 3 and 7. The supply roll, drive roll, and take-up roll are inherent in that as seen in figures 3 and 7 the tape is supplied to roll – 100 and then is removed in a path from roll – 100, so therefore a supply roll and a take-up roll are needed and a drive roll is needed to power the supply, intermediate and take-up rolls so that the loops are conveyed to the clipping device – at 18.

Referring to claim 3, Kollross discloses a means to drive the drive roll – the drive means is inherent since the drive roll is powered by some means to drive the loop forming mechanism.

Referring to claim 4, Kollross discloses an edge – the end portion of jaw – 76 as seen in figures 3 and 7, for catching secured together end portions of a string loop – 34 as it passes around the intermediate roll to cause the secured together portions of the string to protrude from the tape into the entry to the slot and to assist in removal of the string loop – 34 from the tape – see for example figures 3 and 7.

Referring to claim 6, Kollross discloses loop is secured via a knot – see figures 1-11.

Referring to claim 8, Kollross discloses means is provided to radially compress the stuffed food casing to cause a restricted location along a stuffed food casing length, the clipping device being configured to clip the casing at the restricted location – see for example figures 1-11.

Claims 5 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whittlesey, Kollross or Kollross as modified by Whittlesey as applied to claims 4 and 28 above, and further in view of U.S. Patent No. 5,842,915 to Plewa et al. Whittlesey, Kollross and Kollross as modified by Whittlesey further discloses the secured together end portions of the

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string loop are blown/directed into the slot. Whittlesey, Kollross and Kollross as modified by Whittlesey do not disclose an air source directs the loop into the slot. Plewa et al. does disclose an air source directs the loop into the slot – see for example figures 1-8 and columns 1-7.

Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of Whittlesey, Kollross and Kollross as modified by Whittlesey and add the air source to direct the loop of Plewa et al., so as to ensure the loop is moved into the correct position thus making the device as efficient as possible.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whittlesey or Kollross as modified by Whittlesey as applied to claim 1 above, and further in view of U.S. Patent No. 4,437,209 to Duroyon. Whittlesey and Kollross as modified by Whittlesey further discloses the clipping device is of sufficiently lightweight and is driven by a sufficient power source to obtain a clipping cycle – see for example columns 1-7 of Kollross and Whittlesey. Whittlesey and Kollross as modified by Whittlesey do not disclose the clipping device is of sufficiently lightweight and is driven by a sufficient power source to obtain a clipping cycle of less than 3 seconds. Duroyon does disclose the clipping cycle is less than 3 seconds – see for example column 9 lines 57-68 and column 10 lines 1-5. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of Whittlesey or Kollross as modified by Whittlesey and add the clipping cycle time less than 3 seconds of Duroyon, so as to allow for the apparatus to be more efficient in that it can close off more sausage casings in a short amount of time.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whittlesey or Kollross as modified by Whittlesey as applied to claim 1 above, and further in view of U.S. Patent No. 5,885,150 to Whittlesey.

Referring to claim 14, Whittlesey and Kollross as modified by Whittlesey '022 further discloses a conveyor – 22 is provided to remove stuffed food product from the vicinity of the clipping device – at 18 after stuffed food casing is closed, the conveyor comprising a conveying belt and the belt traveling over rollers beneath the conveying surface of the belt – see for example figures 1-11. Whittlesey '022 and Kollross as modified by Whittlesey '022 does not disclose the belt travels over slacker idler rollers so as to be extended and retracted to extend and reduce a space between the clipping device and the conveying surface. Whittlesey '150 does disclose the belt travels over slacker idler rollers – at 50 and/or 66, so as to be extended and retracted to extend and reduce a space between the clipping device and the conveying surface without changing the conveying belt – see for example figures 1-4 and columns 1-5 where the belt is not changed in that the idler rollers are separate from and not integral with the belt and therefore the idler rollers can be moved without changing out the conveying belt. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of Whittlesey '022 or Kollross as modified by Whittlesey '022 and add the retractable conveyor of Whittlesey '150, so as to make the apparatus more flexible in that it can handle sausages of differing sizes.

Referring to claim 15, Whittlesey '022 as modified by Whittlesey '150 and Kollross as modified by Whittlesey '022 and '150 further discloses means is provided to cause the conveyor to retract to increase the space when gatherers for the clipping device are operating to gather stuffed food casing to form a radial restriction in the stuffed food casing and to extend to reduce

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the space and place the conveying surface near the clipping device when the gatherers are dormant – see for example figures 1-4 and columns 1-5 of Whittlesey '150. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus Whittlesey '022 as modified by Whittlesey '150 and Kollross as modified by Whittlesey '022 and '150 and further add the conveyor extending and retracting in relation to the clipping device of Whittlesey '150, so as to make the apparatus more flexible in that it can handle sausages of differing sizes.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kollross as modified by Duroyon. Kollross discloses an apparatus for automatically stuffing tubular food casing with food product, the apparatus comprising, a stuffing horn – at 12, through which food product flows into a tubular food casing deshirred from a shirred food casing stick on the stuffing horn, a clipping device – at 18, for closing with a clip – 92, the food casing after being stuffed, the clipping device comprising a slot for guiding the clip toward the food casing – see for example figures 3-0, a loop – at 34, for hanging the food casing after the food is stuffed, and the clip draws the loop to the food casing and holds the loop to the food casing at two or more points along the loop – see for example figures 1-10. Kollross does not disclose an air source directs the loop into the slot. Plewa et al. does disclose an air source directs the loop into the slot – see for example figures 1-8 and columns 1-7. Therefore it would have been obvious to one of ordinary skill in the art to take the apparatus of Kollross and add the air source to direct the loop of Plewa et al., so as to ensure the loop is moved into the correct position thus making the device as efficient as possible.

Response to Arguments

6. Applicant's arguments with respect to claims 1-6, 8, 13-15, 21, 25, 28-29 and 40-41 have been considered but are moot in view of the new ground(s) of rejection. The newly added limitations to the claims per paper no. 14 are disclosed by the references cited above in paragraphs 4-5 of this office action.

Conclusion

7. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



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